

PROMISING PRACTICES IN HOME AND COMMUNITY-BASED SERVICES

Texas – Rider 37: Promoting Independence “Money Follows the Person”

Issue: Shifting Funds from Nursing Facility to Community-Based Services Budgets when People Leave Nursing Facilities

Summary

Texas' legislature included a rider in the state's appropriations act in 2001 to promote independence and community integration for nursing facility residents. With the passing of Rider 37, Medicaid funding may now follow an individual who moves from a nursing facility into the community. Since the rider became effective September 2001, over 950 Medicaid participants in Texas have transitioned from nursing facilities into the community, using their nursing facility funding.

Introduction

In response to the 1999 U.S. Supreme Court *Olmstead* vs. *L.C.* decision, the Texas Department of Human Services (TDHS) established a plan for community integration of current and potential nursing facility residents. With approximately 62,000 individuals residing in nursing facilities in the State of Texas, there was tremendous potential to serve people who met nursing facility level of care in a more appropriate community setting, without increasing the cost to the state.

Texas, like many states, cannot serve all people eligible for its Medicaid Home and Community-Based

Due to waiting lists, nursing facility residents may need to wait several months for HCBS.

Services (HCBS) waivers, and keeps a list of people interested in the waivers (called an interest list). As a result, people may need to wait several months for services they need. This wait for services can prolong a person's nursing home stay because nursing home residents often cannot live safely in the community without services.

To eliminate the time nursing facility residents need to wait for services, the Texas Legislature authorized an appropriations rider, "Rider 37", that allows people to leave nursing facilities and to use their nursing facility funding for HCBS. Rider 37 provides funding for HCBS by allowing

the state to shift funding from nursing facilities to HCBS as people leave nursing facilities and enter what Texas calls a Community Care Program. Community Care Programs include Medicaid HCBS waivers, Medicaid state plan services, and state-funded HCBS. This report briefly describes Rider 37. All information is based on interviews with staff from the Texas Department of Human Services (TDHS) and written reports from TDHS.

Background

In September 2001, the Texas legislature included a rider in the state appropriations act. The rider allows TDHS to move Medicaid funding from its nursing facility budget to its budget for Community Care Programs when a Medicaid participant transitions from a nursing facility into a home or another community-based residence.

Specifically, Rider 37 states that:

"It is the intent of the legislature that as clients relocate from nursing facilities to community care services, funds will be transferred from Nursing Facilities to Community Care Services to cover the cost of the shift in services."

Rider 37 will remain in effect until the end of state fiscal year 2003, August 31, 2003.

Intervention

Rider 37 allows any interested Medicaid nursing facility resident to apply for transition into the community and have the money follow them when they leave the nursing facility. Residents learned about their options through a letter TDHS sent to all Texas nursing home residents. This letter was part of the plan to promote independence that Texas developed after the *Olmstead* decision. The letter included written materials to inform residents of their choices and provided the phone number for their local TDHS Community Care office, which administers several Community Care Programs at the local level. To qualify for Rider 37, a nursing facility resident must be financially eligible for a Community Care Program if he or she moves into the community, and must be receiving Medicaid support for the nursing facility services.

Once residents indicate a desire to transition into the community, a state-employed case manager assesses the person to determine if he or she meets the medical and functional eligibility criteria for at least one of Texas' Community Care Programs. The resident must remain in the nursing facility until eligibility is determined. Once eligibility is determined, the case manager works with the person to develop and implement a care plan for supporting the person in the community. If the resident wants to receive Medicaid HCBS waiver services and leaves before eligibility is determined, he or she will go on the interest list for waiver services (similar to a waiting list in other states, but called an interest list because eligibility determination is not complete).

Once in the community, participants may use any Community Care Program for which they are eligible. Often this is the Community Based Alternative (CBA) waiver, a Medicaid HCBS waiver which serves older people and adults with physical disabilities. CBA usually has a long interest list. However, since the money follows the participant from the nursing facility

into the community, the participant does not have to go on the interest list and can receive services once eligibility is determined.

Implementation

Implementation of Rider 37 was undertaken relatively quickly and efficiently, since 1) it did not require major restructuring of Texas' long term care system, and 2) the legislature approved no additional funds for Rider 37. Case managers that assist people during transition are the same case managers who support Community Care Program participants already in the community, although the state is looking into creating a staff dedicated to transferring people into the community. Training expenses were minor because no new people were hired; TDHS made case managers and Medicaid eligibility workers aware of the new option for people leaving nursing homes.

Impact

The option of transferring funding from nursing facilities to community services has helped over 950 people transition into the community the law became effective September 2001. The state is monitoring the impact Rider 37 has on the nursing facility budget.

Texas measures HCBS waiver consumer satisfaction for all participants, including former nursing facility residents, through a survey case managers conduct every six months. Texas is currently compiling information specifically for those people who used Rider 37.

Contact Information

For more information about Texas' Rider 37, please call Gerardo Cantu, Texas Department of Human Services, at (512) 438-3693 or jose.cantu@dhs.state.tx.us. Online information about Rider 37 is available at <http://www.dhs.state.tx.us>.

One of a series of reports by Medstat for the U.S. Centers for Medicare & Medicaid Services (CMS) highlighting promising practices in home and community-based services. The entire series will be available online at CMS' web site, <http://www.cms.gov>. This report is intended to share information about different approaches to offering home and community-based services. This report is not an endorsement of any practice.

Discussion Question:

How can states prevent people from entering a nursing facility in order to receive HCBS more quickly?